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Attorney for Defendant Ginger Gutierrez

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN EDWARDS, et al.,

Defendants.

2:09-cr-00132-RLH-RJJ

**STIPULATION TO CONTINUE  
CALENDAR CALL AND TRIAL**

IT IS HEREBY STIPULATED AND AGREED, by and between DANIEL G. BOGDEN, United States Attorney, and MICHAEL CHU, Assistant United States Attorney, counsel for the United States of America, and CHRIS T. RASMUSSEN, ESQ., counsel for Defendant Ginger Gutierrez, and TODD M. LEVENTHAL, ESQ., counsel for Defendant James Kinney, and JOHN HALL, ESQ., counsel for Defendant Brian Dvorak, and MARK S. DZARNOSKI, ESQ., counsel for Defendant Helen Bagley, and DAVID T. BROWN, ESQ., counsel for Defendant Jeff Mitchell; and MACE J. YAMPOLSKY, ESQ., counsel Defendant Melissa Spooner, that the calendar call in the above-captioned matter currently scheduled for April 4, 2012, at the hour of 8:45 a.m., and the trial currently scheduled for April 9, 2012, at the hour of 8:30 a.m., be vacated and set to a date and time convenient to this Court, but, in any event, not earlier than 6 (six) months.

This Stipulation is entered into for the following reasons:

1. The Court has designated this case as complex, due to the number of defendants, the nature of prosecution, etc. The parties need additional time to prepare for trial, including conducting legal research and factual investigation. The government is still in the process of arranging the transport of an additional two-hundred banker boxes of materials that are in the possession of the Securities and Exchange Commission

1 in Los Angeles, California. Defendants need additional time to determine whether  
2 these boxes contain materials that are relevant to this case. The parties also need  
3 additional time to continue exploring full resolution of the matter without going to  
4 trial. For all of these reasons, it is unreasonable to expect adequate preparation for  
5 pretrial proceedings and for the trial itself to occur within the time limits established  
6 under the Speedy Trial Act.

7 2. Defendant John Edwards is still in a foreign country, contesting extradition to the  
8 United States of America.

9 3. Remaining defendants who have appeared in this case are not in custody and, along  
10 with the government, agree to a continuance.

11 4. Denial of this request for continuance could result in miscarriage of justice.  
12 Additional time requested by this Stipulation is excludable in computing the time  
13 within which the trial herein must commence pursuant to the Speedy Trial Act, 18  
14 U.S.C. §3161(h)(7)(A), considering factors under 18 U.S.C. §§3161(h)(7)(B)(i) and  
15 (ii) (and, alternatively, under 18 U.S.C. §3161(h)(7)(B)(iv)).

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5. The interests of efficiency and judicial economy would be best served by a continuance. As such, the period of delay resulting from the absence or unavailability of defendant(s) is excludable under the Speedy Trial Act, 18 U.S.C. §3161(h)(3)(A).

This is the third request for continuance filed herein.

Dated this 1<sup>st</sup> day of February, 2012.

DANIEL G. BOGDEN  
United States Attorney

/s/ Chris T. Rasmussen  
CHRIS T. RASMUSSEN, ESQ.  
Counsel for Defendant Ginger Gutierrez

/s/ Michael Chu  
MICHAEL CHU, ESQ.  
Assistant United States Attorney

/s/ Todd M. Leventhal  
TODD M. LEVENTHAL, ESQ.  
Counsel for Defendant James Kinney

/s/ John Hall  
JOHN HALL, ESQ.  
Counsel for Defendant Brian Dvorak

/s/ Mark S. Dzarnoski  
MARK S. DZARNOSKI, ESQ.  
Counsel for Defendant Helen Bagley

/s/ David T. Brown  
DAVID T. BROWN, ESQ.  
Counsel for Defendant Jeff Mitchell

/s/ Mace J. Yampolsky  
MACE J. YAMPOLSKY, ESQ.  
Counsel for Defendant Melissa Spooner

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

**FINDINGS OF FACT**

Based on the pending Stipulation of counsel, and good cause appearing therefore, the court finds that:

1. The Court has designated this case as complex, due to the number of defendants, the nature of prosecution, etc. The parties need additional time to prepare for trial, including conducting legal research and factual investigation. The government is still in the process of arranging the transport of an additional two-hundred banker boxes of materials that are in the possession of the Securities and Exchange Commission in Los Angeles, California. Defendants need additional time to determine whether these boxes contain materials that are relevant to this case. The parties also need additional time to continue exploring full resolution of the matter without going to trial. For all of these reasons, it is unreasonable to expect adequate preparation for pretrial proceedings and for the trial itself to occur within the time limits established under the Speedy Trial Act.
2. Defendant John Edwards is still in a foreign country, contesting extradition to the United States of America.

3. Remaining defendants who have appeared in this case are not in custody and, along with the government, agree to a continuance.

4. This is the third request for continuance filed herein.

**CONCLUSIONS OF LAW**

1. Denial of this request for continuance could result in miscarriage of justice. Additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. §3161(h)(7)(A), considering factors under 18 U.S.C. §§3161(h)(7)(B)(i) and (ii) (and, alternatively, under 18 U.S.C. §3161(h)(7)(B)(iv)).

2. The interests of efficiency and judicial economy would be best served by a continuance. As such, the period of delay resulting from the absence or unavailability of defendant(s) is excludable under the Speedy Trial Act, 18 U.S.C. §3161(h)(3)(A).

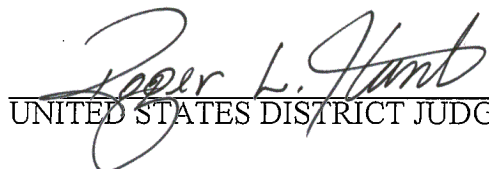
**ORDER**

IT IS ORDERED that the calendar call currently scheduled for April 4, 2012, at the hour of 8:45 a.m., be vacated and continued to January 2, 2013 at 8:45 AM, Courtroom 6C.

IT IS FURTHER ORDERED that the trial currently scheduled for April 9, 2012, at the hour of 8:30 a.m., be vacated and continued to January 7, 2013 at 9:00 AM, Courtroom 6C.

IT IS FURTHER ORDERED that trial briefs, proposed voir dire questions, proposed jury instructions, and list of Government's prospective witnesses shall be submitted to the Court by 12:00 PM, January 2, 2013.

DATED this 2nd day of February, 2012.

  
UNITED STATES DISTRICT JUDGE